



Agenda Item:	Reference: HACC.523
Date: March 22 2008	
CAA Submission to Competition on the economic regulation of UK airports	

Report by the Technical Adviser

BACKGROUND

1. Members will be aware that the Civil Aviation Authority is the independent regulator for the civil aviation industry in the United Kingdom, except for the increasing involvement of the European Union and its agencies.
2. Over the past two years the Authority has been fulfilling one of its regulatory duties-undertaking a five yearly (quinquennial) review of price controls and some operating restrictions on the BAA London airports in consultation with the Competition Commission. The HACC has responded to a number of the consultations issued by the Authority in this process which has published its decision for the period 2008 – 2013 and which is reviewed as HACC. 522 at the Committee meeting of 26 March.
3. The Commission made recommendations to the Authority during the price control review but continues its market inquiry into the future of the UK airport industry, including what should be done about the BAA airport group, as a separate issue.
4. Now, the CAA has made a submission to the Commission which argues that there is a clear case for regulatory reform but recognises that airport investments and service quality improvements will still need to be paid for.

THE SUBMISSION

5. The CAA says that it welcomes this opportunity to contribute to the Commission's consideration of economic regulation as part of its inquiry and to the more general debate about how to develop the best framework for economic regulation of UK airports, which the Department for Transport has said it will consider following the Commission's report.
6. The regulatory framework has remained largely unchanged for 20 years. The CAA argues that it risks not keeping pace with future changes in the UK aviation market and should be modified to bring it into line with best practice regulation. This reform should include :
 - * Reforming the CAA's duties to place the interests of consumers first, recognising that effective competition provides the best means of protecting their interests, as it does at the majority of UK airports
 - * Providing the CAA with more flexibility and discretion so that it can tailor its regulation better across airports and over time, responding to the continually changing market environment. This could allow it to act more rapidly when unfair conduct is identified but also enable the CAA to enter into longer-term commitments with airports in a way that encourages appropriate investment
 - * Providing the CAA with concurrent competition powers , which most other regulators hold - so that it can make use of the existing competition law regime to balance sector- specific regulation with general competition tools

7. The CAA believes that these improvements to the framework would enhance the clarity and flexibility of regulation, without extending unnecessarily the CAA's intervention in markets: the Authority considers that the vast majority of UK airports should continue to operate free of detailed economic regulation, as competition, rather than regulation, provides the best way of ensuring that consumers receive the service they demand, offered at fair prices.

8. With this in mind, the CAA recommends that there is a case for additional measures aimed at providing a check against unnecessary regulation, including:

- An improved appeals mechanism, installing the Competition Commission as the appeals body for CAA price control decisions
- The use of time-limited licence conditions, and
- periodic reviews of the regulatory burden
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These would build on the CAA's existing obligation to impose only the minimum of regulation necessary.

9. The Commission will be considering issues connected with its market inquiry over the remainder of this year.

10. Harry Bush, the CAA's Group Director of Economic Regulation, commented today: " There is now widespread agreement – between airlines, BAA and the regulator – that the current regulatory framework needs modernising. But there is likely to be considerable debate about the best way to do this.

The CAA has placed significant weight on passengers' interests – notably in its recent decisions on investment and service quality at Heathrow and Gatwick - but the regulatory regime could be improved by placing the interests of consumers unambiguously at the heart of the CAA's duties and by encouraging competition between airports and between airlines for their business. This would also line up the CAA's duties with those of other economic regulators.

The CAA wants smarter regulation – rather than more regulation – encouraging competition and tailoring solutions to problems rather than extending the CAA's remit to more airports or increasing the regulatory burden. The CAA therefore recommends an updated package of checks and balances to minimise the regulatory burden and to ensure that stakeholders are able effectively to scrutinise and challenge the CAA's major regulatory decisions. This would be consistent with Government's Better Regulation agenda.

But we should also be clear that regulatory reform is no magic bullet – airport investments and service quality will still need to be paid for. What a reformed regulatory regime will provide, however, is the best possible framework to meet the complex and varied challenges facing UK aviation."

11. The CAA's submission comes at a time when a number of stakeholders are calling for a reform of the regulatory framework of UK airports. The CAA says that it welcomes this public debate and looks forward to discussing these issues with the Commission as well as with airports, airlines, consumer groups and Government.

CONCLUSION

12. The Committee will, no doubt ,welcome in principle the CAA's intention to place the interests of consumers at the heart of the Authority's duties. Much will depend on how the Commission considers the CAA's submission and the recommendations it make resulting from it's market inquiry late in 2008. Members will note the statement by CAA, in para. 11 above, that it look forward to discussing these issues with, amongst others, "consumer groups" which should include the HACC.

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